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Bill No. 3 of 1920.—The Madras Town-Planning Bill, with Statement of Objects and Reasons (Tamil), (Telugu), (Kanarese), (Malayalam) and (Hindustani).

Bills to be introduced into the Council of the Governor of Fort St. George for the purpose of making Laws and Regulations.

Under rule 33 of the rules for the conduct of business at meetings of the Council the following Bills, together with the Statements of Objects and Reasons, are published for general information :—

THE MADRAS TOWN-PLANNING BILL, 1920.

No. 3 of 1920.

Whereas it is expedient that the development of towns should be regulated to secure to their present and future inhabitants sanitary conditions, amenity, and convenience ;

And whereas the previous sanction of the Governor-General required by section 79, sub-section (2), of the Government of India Act, 1915, has been obtained to the passing of this Act ; It is hereby enacted as follows :—

CHAPTER I.

Preliminary.

1. (1) This Act may be called the Madras Town-Planning Act, 1920. Short-title and extent.

(2) It shall extend to the whole of the Madras Presidency.

Interpretation clause

2. In this Act, unless there is anything repugnant in the subject or context—

"Municipality" means the City of Madras as defined in the Madras City Municipal Act, 1919, and any local area constituted as a municipality under the Madras District Municipalities Act, 1920.

"Chairman" means the "Commissioner" in the City of Madras, and the "Chairman of the Municipal Council" in other municipalities.

"Owner" includes the person for the time being receiving, or entitled to receive, whether on his own account or as agent or trustee for another person, the rents or profits of the property in connection with which the word is used.

Madras City Municipal Act, 1904, section 3 (23).

"Prescribed" means prescribed by rules made under this Act.

CHAPTER II.

TOWN-PLANNING SCHEMES.

Land in respect of which a town-planning scheme may be made.

3. (1) A town-planning scheme may be made in accordance with the provisions of this Act in respect of any land which is in course of development or is likely to be used for building purposes.

(2) Where it appears to the Governor in Council that a piece of land already built upon, or a piece of land not likely to be used for building purposes, is so situated with respect to any land which is in course of development or likely to be used for building purposes that it ought to be included in any town-planning scheme intended to be made with respect to the last-mentioned land, the Governor in Council may sanction the making of a scheme including such piece of land as aforesaid, and providing for the demolition or alteration of any structures thereon as far as may be necessary for carrying the scheme into effect.

English Act, section 54 (1), (3) and (7). Bombay Act, section 8.

(3) The expression "land likely to "be used for building purposes" shall include any land likely to be used as, or for the purpose of providing, open spaces, roads, streets, parks, pleasure or recreation grounds, or for the purpose of executing any work upon or under the land incidental to a town-planning scheme, whether in the nature of a building work or not, and the decision of the Governor in Council as to whether land is likely to be used for building purposes or not shall be final.

Declaration of intention to make scheme.

4. (1) The council of any municipality with a population which at the last preceding census exceeded ten thousand may by resolution declare its intention of

Bombay Act, section 9 (1).

making, subject to the sanction of the Governor in Council, a draft town-planning scheme, in respect of any such land as is within the municipal area or in its vicinity outside such area.

(2) No town-planning scheme shall include any area within three miles of the boundary of another municipality without the concurrence of the council of such other municipality, or land in a union established under the Madras Local Boards Act, 1884, without the concurrence of the district board:

provided that where concurrence is refused the Governor in Council may, after considering the objections of such council or district board, overrule them, and permit such area to be included in the scheme.

English Act, section 55, and schedule IV.
Bombay Act, section 3.

Matters that may be dealt with in scheme.

5. A town-planning scheme may provide for any of the following matters:—

(*a*) the construction, diversion, extension, alteration, improvement or the closure of streets, roads and communications;

(*b*) the construction, alteration, removal and demolition of buildings, bridges and other structures;

(*c*) water-supply;

(*d*) lighting;

(*e*) drainage inclusive of sewerage and of surface draining and sewage disposal;

(*f*) the allotment or reservation of land for streets, roads, squares, buildings for religious and charitable purposes, open spaces, gardens, recreation grounds, schools, markets, shops, factories, and public purposes of all kinds;

(*g*) the preservation of objects of archæological or historical interest or natural beauty and of buildings actually used for religious purposes or regarded by the public with special religious veneration;

(*h*) the imposition of conditions and restrictions in regard to the character, number, architectural features and height of buildings allowed in specified areas, and the purposes to which buildings or specified areas may or may not be appropriated; and the provision and maintenance of sufficient open space about buildings;

English Act, section 55 (2).
Bombay Act, section 3 (*j*).

(*i*) the suspension, so far as necessary for the proper carrying out of the scheme, of any provision relating to buildings in the Madras City Municipal Act, 1919, the Madras District Municipalities Act, 1920, or the Madras Local Boards Act, 1884, or in any rule, by-law or regulation made under the said Acts

and in force in the area included in the scheme;

(*j*) the modification of regular lines of streets prescribed under any Municipal Act;

(*k*) the laying out of land as building sites;

(*l*) such other matters not inconsistent with the objects of this Act as the Governor in Council may prescribe

Sanction of local Government to proposal to make scheme.

6. (1) After the passing of a resolution under section 4 the chairman shall keep a copy of a plan showing the area which it is proposed to include in the scheme, the surrounding lands and any existing streets for the inspection of the public at all reasonable hours at the municipal office, and shall give public notice in the municipality that it is so kept and that application will be made to the Governor in Council for sanction to the proposal to make a scheme. Bombay Act, section 9 (4).

(2) If within sixty days from the date of such publication any person likely to be affected by such scheme communicates in writing any objection or suggestion relating thereto the municipal council shall consider such objection or suggestion. Bombay Act, section 9 (2).

(3) The chairman shall thereupon, as soon as practicable, submit to the Governor in Council copies of the resolutions of the municipal council, together with such information or plans as the Governor in Council may prescribe, and shall apply to the Governor in Council for sanction to the proposal to make a scheme after giving public notice in the municipality that application for sanction is being made.

(4) After receiving such application and after making such enquiry as he may think fit, the Governor in Council may by notification in the *Fort St. George Gazette* either sanction the proposal to make the scheme with or without modifications and subject to such conditions as he may think fit to impose, or by similar notification refuse to give sanction. English Act, section 54 (4). Bombay Act, section 9 (6).

Publication of draft scheme.

7. (1) Within twelve months from the date of a notification under section 6, sub-section (4), the council shall, after consulting in the prescribed manner the owners of lands and buildings in the area affected, prepare and publish a draft scheme. Bombay Act, section 10 (1).

(2) If no draft scheme is published within the said period, the sanction of the Governor in Council shall lapse. Bombay Act, section 10 (3).

Contents of draft scheme.

8. Every draft scheme shall be printed and shall be accompanied by a plan showing the lines of any existing streets Bombay Act, section 11.

and those of the streets proposed in the scheme, and shall contain the following particulars:—

(*a*) the ownership of all lands and buildings in the area to which the scheme relates;

(*b*) the area of all such lands whether public or private;

(*c*) the land allotted or reserved under section 5, clause (*f*), with a general indication of the uses to which such land is to be put;

(*d*) an estimate of the net cost of the scheme;

(*e*) draft regulations and details of the scheme under the clauses of section 5 which it is proposed to apply; and

(*f*) any other particulars or plans prescribed by the Governor in Council.

Bombay Act, section 13.

Local government's sanction to draft scheme.

9. (1) If within sixty days from the date of the publication of a draft scheme any person affected by such scheme communicates in writing any objection to such scheme the council shall consider such objection and may modify the scheme as they think fit.

Bombay Act, section 14.

(2) The draft scheme as passed by the council together with all written objections and suggestions shall thereupon be submitted to the Governor in Council for sanction.

English Act, section 54 (4).

(3) The Governor in Council may, after considering objections and making such enquiry as he thinks fit, sanction or disallow the scheme or refuse to sanction the scheme except with such modifications and subject to such conditions as he may think fit to impose.

(4) The final sanction of the Governor in Council to a scheme shall be published by notification in the *Fort St. George Gazette*, and such notification shall state at what place and time the scheme will be open to the inspection of the public and shall fix a period within which the scheme must be executed.

(5) On the expiration of such period, the Governor in Council may, if he thinks fit, by notification in the *Fort St. George Gazette*, extend it for a further period.

English Act, section 54 (5).
Bombay Act, section 40 (3).

(6) A scheme when finally sanctioned by the Governor in Council, shall, from the date of the notification under sub-section (4), have effect as if it were enacted in this Act.

Effect of final scheme.

10. From the date of a notification of the Governor in Council finally sanctioning a scheme under section 9, sub-section (4):—

(*a*) all owners of lands and buildings in the area affected by the scheme who

propose to construct or reconstruct or in any way alter or add to buildings shall conform in every particular with the requirements of such scheme; and no building shall be constructed or re-constructed in any area in which building is expressly forbidden in the scheme, or which is reserved in the scheme for any purpose incompatible with building;

(b) notwithstanding anything in the Land Acquisition Act, 1894, such notification shall operate in respect of any land required for the purposes of the scheme as a declaration under section 6 of the said Act, and no further declaration shall be necessary, but it shall not be incumbent on the Governor in Council, or officer authorized in that behalf, to take immediate steps for the acquisition of such land. Provided that if the land is not acquired within three years from the date of the notification or any date fixed therein as the date with reference to which the market value shall be determined, it shall cease to have effect as a declaration under section 6 of the Land Acquisition Act.

Power of municipal executive to enforce scheme.

English Act, section 57.
Bombay Act, sections 42–43.

11. (1) If the chairman is satisfied that any work on any structure has been commenced or is being carried on in contravention of section 10 or of any direction or requisition lawfully given or made under a scheme, he may make a provisional order requiring the owner of the structure to demolish the work done, or so much of it as, in his opinion, has been unlawfully executed, or to make such alterations as may, in his opinion, be necessary to bring the work into conformity with the scheme, direction or requisition, or with plans, or particulars on which any order or permission to proceed was based.

(2) The chairman shall serve a copy of the provisional order made under sub-section (1) on the owner of the structure together with a notice requiring him to show cause within a reasonable time to be named in such notice, why the order should not be confirmed.

(3) If the owner fails to show cause to the satisfaction of the chairman, the chairman may confirm the order and such order shall be binding on the owner and may be enforced, and the expenses of enforcement may be recovered by the means provided in the Madras City Municipal Act, 1919, or the District Municipalities Act, 1920, as the case may be, for the enforcement of the lawful orders of municipal authorities and for the recovery of expenses thereby incurred, provided that an appeal against the order

of the chairman shall lie to the Governor in Council in the City of Madras, and to the Collector in any other municipality and the decision of the Governor in Council or Collector, as the case may be, shall be final.

CHAPTER III.

COMPENSATION.

Limitation of compensation.

12. (1) Any person whose property is injuriously affected by the making of a town-planning scheme shall, if he makes a claim for the purpose within the time (if any) limited by the scheme, not being less than three months after the date of publication of a notification by the Governor in Council sanctioning the scheme under section 9, sub-section (4), be entitled to obtain compensation in respect thereof from the municipal council. Any question as to whether any property is injuriously affected within the meaning of this section and as to the amount of compensation to be paid shall be determined by the Collector. If the person interested is not satisfied with the award he may by written application to the Collector require that the matter be referred by him for the determination of the principal Civil Court of original jurisdiction in accordance with the provisions of the Land Acquisition Act, 1894.

(2) No person shall be entitled to compensation in respect of any damage, loss or injury except in respect of a building or work begun before the date of publication of the chairman's notice under section 6, sub-section (1), and only in so far as such building or work has proceeded at the said date.

Bombay Act, section 51.

Modification of Land Acquisition Act.

13. Immovable property required for the purposes of a town-planning scheme shall be deemed to be land needed for a public purpose, within the meaning of the Land Acquisition Act, 1894, and may be acquired under the said Act modified in the manner provided in section 10 and in this chapter; and on payment of the compensation awarded under the said Act in respect of such property and of any other charges incurred in acquiring it, such property shall vest in the municipal corporation.

Substitution of clauses for clauses of sections 22 and 23 of Land Acquisition Act.

14. (1) The provisions of sections 15, 23 and 24 of the Land Acquisition Act, 1894, shall have no application in the acquisition of property for the purposes of this Act.

(2) In determining the amount of compensation to be awarded for land

acquired under the said Act for such purposes the collector and the court shall take into consideration :—

(*a*) the market value of the land at the date of publication of a notification by the Governor in Council finally sanctioning a scheme under section 9, sub-section (4); unless a later date shall have been fixed in the notification as the date with reference to which the market value should be determined.

(*b*) the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time of the collector's taking possession thereof ;

Land Acquisition Act, section 23 (1), *secondly*.

(*c*) the damage (if any) sustained by the person interested, at the time of the collector's taking possession of the land, by reason of severing such land from his other land or by reason of the acquisition injuriously affecting his other property movable or immovable in any other manner, or his earnings; provided that this clause shall not apply in the case of offensive industries, which must, under the provisions of the scheme, be removed;

Land Acquisition Act, section 23 (1), *thirdly* and *fourthly* and Calcutta Municipal Act, section 557 (*e*).

(*d*) if, in consequence of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; provided that this clause shall not apply in the case of offensive industries, which must, under the provisions of the scheme, be removed.

Land Acquisition Act, section 23 (1) *fifthly*, and Calcutta Municipal Act, section 557 (*e*).

(3) But the collector and the court shall not take into consideration—

(*a*) the degree of urgency which has led to the acquisition ;

(*b*) any disinclination of the person interested to part with the land acquired ;

(*c*) any damage sustained by him, which, if caused by a private person, would not render such person liable to a suit ;

(*d*) any damage which is likely to be caused to the land acquired after the date of publication of the notification under section 9, sub-section (4), by or in consequence of the use to which it will be put ;

Land Acquisition Act, section 24 *first* to *fifthly*.

(*e*) any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired ;

(*f*) any outlay or improvements on the land acquired, commenced, made or effected after the date of publication of the chairman's notice under section 6, sub-section (1) ;

New ; but cf. Land Acquisition Act, section 24 *seventhly*.

(*g*) any outlay or improvements on, or disposal of, the land acquired which,

Calcutta Municipal Act, section 557, proviso (iii).

having regard to the time at which they were made and other circumstances, appear to have been commenced, made or effected with intent to obtain increased compensation.

English Development and Road Improvements Funds Act, 1909, Schedule, rule 2 (*c*).
Rochdale Corporation Act, 1890, section 30.

(4) The collector and the court shall deduct from the compensation to be awarded the value, at the time of the collector's taking possession of the land, of the benefit (if any) that in the opinion of the collector or the court accrues to the person interested on the execution of the scheme by reason of its favourably affecting any other immovable property of the person interested; provided that the sum deducted under this sub-section shall not exceed one-half of the market value determined under sub-section (2), clause (*a*).

Presumption that value is 20 times assessment.

Calcutta Municipal Act, section 557 (*d*); Bombay Improvement Act, section 49 (4).

15. The market value of any land or building entered in the municipal assessment books shall, until the contrary be shown, be presumed to be twenty times the annual value of the property as entered in the said books.

Value due to use for unlawful purposes, etc., to be disregarded.

Calcutta Municipal Act, section 557, proviso (ii); Bombay Improvement Act, section 49 (5).

16. If the market value of any land or building is specially high in consequence of the property being put to a use which is unlawful or contrary to public policy, that use shall be disregarded and the market value shall be deemed to be the market value of the property if put to ordinary uses.

Exclusion of compensation when ordinary powers not exceeded.

Bombay Act, section 22.

English Act, section 59.

17. (1) Where property or a private right of any sort is alleged to be injuriously affected by reason of any provisions contained in a town-planning scheme, no compensation shall be paid in respect thereof, if or in so far as the provisions are such as would have been enforceable without compensation under any law, rule or by-law at the time in force.

(2) Property or a private right of any sort shall not be deemed to be injuriously affected by reason of any provisions inserted in a scheme, which, with a view to securing the amenity or better sanitation of the area comprised in such scheme or and part thereof, impose any conditions and restrictions in regard to any of the matters specified in section 5, clause (*f*), clause (*g*) or clause (*h*).

CHAPTER IV.

BETTERMENT CONTRIBUTION.

Power to levy betterment contribution.

English Act, section 58 (3).

18. Where by the making of any town-planning scheme any land or building is increased in value, the municipal council, if it makes a claim for the purpose within the time (if any) limited by the scheme, not being less than three months

after the date of publication of a notification of the Governor in Council finally sanctioning a scheme under section 9, sub-section (4), shall be entitled to recover from the owner of such land or building a betterment contribution of one-half of the increase in value:

Provided that if a deduction is made under section 14, sub-section (4), with respect to such land or building, the contribution leviable under this section shall be reduced by the amount of such deduction.

Levy of contribution in twenty half-yearly instalments as integral part of property tax.

19. (1) The betterment contribution shall be paid in half-yearly instalments of one-twentieth of the whole amount on the same dates as the property tax.

(2) (*a*) Each instalment shall be deemed to be an integral part of the instalment of the property tax due on the same date and shall be equally a prior charge on the property;

(*b*) subject to any rules made by the Governor in Council under section 28, sub-section (2), clause (*k*), the chairman shall have the same powers and shall adopt the same procedure for the assessment and collection of the betterment contribution as he has for the assessment and collection of the property tax, persons affected shall have the same right to receive notice of assessment and to object to the assessment and to appeal in respect thereof as they have in respect of the property tax, decisions on appeal shall to the same extent be final and conclusive, and

(*c*) lands and buildings exempt from the property tax shall also be exempt from any betterment contribution.

Option of objecting owner to require corporation to acquire his property.

20. (1) The owner of any property separately registered in the municipal assessment books and finally assessed to a betterment contribution may, within thirty days of the date on which the determination of any objection or appeal becomes final, by written notice require the municipal council to acquire the said property at its market value as determined under sections 14 to 16 (both inclusive), without deduction under section 14, sub-section (4); but if any other property of the same owner has been acquired at a price reduced by deduction under section 14, sub-section (4), the said owner shall have no right to claim any refund in consideration thereof.

London County Council Act, 1895, section 36 (9).

(2) The council shall thereupon acquire the property with the sanction of the Governor in Council, unless it elects to abandon the levy of the proposed contribution.

CHAPTER V.

MISCELLANEOUS.

Power of councils to make agreements subject to control of local Government

Bombay Act, section 27.

21. A municipal council shall be competent to make any agreement with any person in respect of any matter which is to be provided for in a town-planning scheme subject to the power of the Governor in Council to modify or disallow such agreement, and unless it is otherwise expressly provided therein such agreement shall take effect on and after the day on which the scheme comes into force:

Provided that if the agreement be modified by the Governor in Council, either party shall have the option of avoiding it if he so elects.

Relation to municipality of union included in a scheme.

22. (1) When any part of the area of a union constituted under the Madras Local Boards Act, 1884, is comprised in a town-planning scheme, then, notwithstanding anything in the said Act, the municipal authorities shall exercise therein all the powers given to them by this Act or the scheme and the union authorities shall be bound to give all information that may be required by the municipal authorities for the purpose of this Act or the scheme, and to do nothing that will obstruct the lawful exercise of the powers of the municipal authorities thereunder.

(2) Any dispute between the municipal and the union authorities may be referred by the council or by the district board acting on behalf of the union panchayat to the Governor in Council for adjudication; and the decision of the Governor in Council shall be final.

Joint town-planning committee.

English Act, section 55 (3).
Bombay Act, section 45.

23. (1) When two or more municipal councils are of opinion that the interests of contiguous areas within their respective jurisdictions can best be served by the making of a joint town-planning scheme, and the Governor in Council concurs, a joint town-extension committee shall be constituted.

(2) Such committee shall consist of representatives of each council elected in such manner and in such proportion as the Governor in Council may prescribe.

(3) When such committee has been duly constituted, the provisions of this Act shall apply for the purpose of making and executing the joint scheme:

Provided that—

(*a*) Such committee shall exercise the powers and perform the duties of the council, and the presiding member thereof the powers and duties of the chairman under this Act; and

(*b*) the draft joint town-planning scheme shall, unless special provision is

made therein for executing the scheme or any part thereof jointly, specify the parts of the scheme to be executed at the expense of the several municipalities in the several contiguous areas and the several parts of the scheme shall thereafter, when notified in the final scheme, have effect in the several contiguous areas as if they were separate schemes.

Variation or revocation of schemes. — Bombay Act, section 46.

24. (1) A town-planning scheme may at any time be varied or revoked by a subsequent scheme prepared, published, and sanctioned in accordance with this Act.

Provided that the Municipal Council shall be competent to modify a scheme after it has been finally sanctioned by the Governor in Council under section 9, sub-section (4), by an agreement entered into with the persons interested in the scheme and with the concurrence of the Governor in Council

English Act, section 54 (6).

(2) The Governor in Council on the application of the council or of any person appearing to him to be interested may at any time, by notification in the *Fort St. George Gazette*, revoke a scheme if he thinks fit to do so, provided that the Governor in Council shall give the council a reasonable opportunity of stating their views on any application made by any such person.

Limitation of compensation payable to person affected by variation or revocation of scheme. — Bombay Act, section 47. English Act, section 58 (6).

25. If at any time after the day on which a final scheme has come into force such scheme is varied or revoked, any person who has incurred expenditure for the purpose of complying with such scheme shall be entitled to receive compensation from the municipal corporation only in so far as, by reason of the variation or revocation of such scheme, the object of expenditure has ceased to be in any way beneficial to him.

Powers of control of local Government. — English Act, section 61.

26. (1) If the Governor in Council is satisfied, after giving the municipal council an opportunity of explanation, and considering any other representations that may be made to them, that a municipal council—

(*a*) has failed to take the requisite steps for having a satisfactory town-planning scheme prepared and approved in a case where a town-planning scheme ought to be made, or

(*b*) has failed to adopt any scheme proposed by owners of any land in a case where the scheme ought to be adopted, or

(*c*) has unreasonably refused to consent to any modifications or conditions imposed by the Governor in Council,

the Governor in Council may, as the case requires, order the municipal council to prepare and submit for the approval of

the Governor in Council such a town-planning scheme, or to adopt the scheme, or to consent to the modifications or conditions so inserted :

Provided that, where the municipal council has failed to adopt a scheme, the Governor in Council, in lieu of making such an order as aforesaid, may approve the proposed scheme, subject to such modifications or conditions, if any, as the Governor in Council thinks fit, and thereupon the scheme shall have effect as if it had been adopted by the municipal council and finally sanctioned by the Governor in Council.

(2) If the Governor in Council is satisfied, after giving the municipal council an opportunity of explanation, that a municipal council has failed to enforce effectively the observance of a scheme which has been finally sanctioned, or any provisions thereof, or to execute any works which under the scheme or this Act the council is required to execute, the Governor in Council may order that council to do all things necessary for enforcing the observance of the scheme or any provisions thereof effectively, or for executing any works which under the scheme or this Act the council is required to execute.

(3) For the purposes of this section the Governor in Council shall have the same powers of calling for records, of causing inspection to be made, and of enforcing his orders or appointing persons to enforce them as he has under sections 40 to 43 (both inclusive) of the Madras City Municipal Act, 1919, or sections 35 and 40 of the District Municipalities Act, 1920, as the case may be.

Bombay Act, section 5.

Powers of entry, etc.

27. For the purpose of the preparation, making or execution of any town-planning scheme, the municipal authorities (or persons appointed by the Governor in Council under section 26), their subordinates and contractors shall have the same power to enter upon, survey and set up marks on property and to do all acts necessary for such purposes, subject to the same conditions and restrictions, as they have for other municipal purposes under Part VI of the Madras City Municipal Act, 1919, or under Part VI of the Madras District Municipalities Act, * 1920, as the case may be ; and persons interfering with the exercise of such powers by the municipal authorities (or persons appointed by the Governor in

* City Act, 1904, sections 440–1 and 466–7. District Act, 1884, sections 274–5 and 277.

Council), their officers, servants, or contractors, shall be liable to the same penalties.

Power of Local Government to make rules.

28. (1) The Governor in Council may make rules consistent with this Act either generally or for any particular area, to carry out all the purposes of this Act and such rules may be incorporated in any scheme by a reference thereto in the scheme, subject to any modifications that may be set out in the scheme.

Bombay Act, section 52.

English Act, sections 55 and 56, and Schedules IV and V.

(2) In particular and without prejudice to the generality of the foregoing power, the Governor in Council may make rules to determine the following matters :—

(*a*) the information and plans to be submitted with an application under section 6, sub-section (3), for sanction to a proposal to make a scheme ;

(*b*) the manner of publication of the notice under section 6 (1) and of the draft scheme under section 7 ;

(*c*) the further particulars or plans for inclusion in schemes under section 5, clause (*l*), and section 8, clause (*f*) ;

(*d*) the scale of all plans made under this Act, the particulars to be shown in them, the manner in which such particulars shall be shown, the colouring of such plans, and all such matters ;

(*e*) the election of members of joint town-planning committees under section 23, sub-section (2), and the procedure of such committees ;

(*f*) the manner in which all documents and plans prepared under this Act shall be made accessible to the public ;

(*g*) the procedure to be adopted for securing co-operation on the part of the municipal authorities with the owners or persons interested in property proposed to be comprised in a town-planning scheme at every stage of the proceedings by means of conferences and such other means as may be expedient, the summoning, presidency and procedure of such conferences and all such matters ;

English Act, section 56 (2) (*a*).

(*h*) the extent to which the proceedings and acts of local authorities under this Act shall be regulated by the provisions of any municipal or local law applicable to such authorities ;

(*i*) enquiries and reports as to the beginning and the progress and completion of works and other action under any scheme ;

(*j*) sanitary principles and building regulations to be observed in drawing up schemes ;

(*k*) the reference of any question of compensation or betterment contribution (including the apportionment thereof between different persons having an interest in the property affected) to arbitration in the first instance, and the extent to which the award of the arbitrator shall be final.

(3) The power to make rules under this Act shall be subject to the condition of previous publication.

29. Notwithstanding anything in section 4, the Governor in Council may, for reasons to be recorded, by notification in the *Fort St. George Gazette* extend any provision of this Act to any municipality with a population which at the last preceding census did not exceed ten thousand, or to any union established under the Madras Local Boards Act, 1884, and may declare its extension to be subject to such restrictions and modifications as he thinks fit: Extension of provisions to small municipalities and unions.

Provided that such notification extending any provision to a union shall provide for the exercise by the district board of the district in which the union lies, and not by any other authority, of functions exercisable under any such provision of this Act by a municipal council.

30. (1) Whenever a municipal council proposes to undertake, in virtue of its powers under the Madras City Municipal Act, 1919, or the Madras District Municipalities Act, 1920, as the case may be, a scheme of town improvement in any area within the municipality which is already built upon, the Governor in Council may, if he is of opinion that such improvement scheme will specially benefit the owners of buildings and land in such area, by notification in the *Fort St. George Gazette* apply to such area sections 14 to 16 (both inclusive), chapter IV, and section 28, sub-section (2), clause (*k*) of this Act for the purposes of such improvement scheme: Application of certain provisions to town-improvement schemes.

Provided that in the construction of section 14, sub-section (2), clause (*a*), and sub-section (3), clauses (*d*) and (*f*) and of section 18 the words immediately following the words "the date of publication" and specifying such date shall in each case be read as if they were replaced by the words "of a notification under section 30, "sub-section (1)"; in the construction of section 14, sub-section (2), clauses (*c*) and (*d*), the words "the provisions of the

scheme" shall be read as if they were replaced by the words "a scheme of town improvement"; and in the construction of section 18 the words "any town-planning scheme" as if they were replaced by the words "any scheme of town improvement."

(2) The Governor in Council shall, before issuing a notification under sub-section (1), give the owners of buildings and lands in the area affected an opportunity of showing cause why such notification should not be issued.

(3) From the date of publication of a notification under sub-section (1) property may be acquired and betterment contributions may be levied for the purposes of the town-improvement scheme as though it were a town-planning scheme made under this Act.

(4) A scheme of town improvement means, for the purposes of this section, a scheme providing for the improvement of a municipality by opening up congested areas, demolishing obstructive buildings, laying out or altering streets, providing open spaces for ventilation or recreation, and acquiring land for the said objects and for the rehousing of persons of the poorer and working classes displaced by the execution of the scheme.

STATEMENT OF OBJECTS AND REASONS.

Many municipalities in this Presidency have from time to time devised schemes for new extensions or for the relief of congestion, which have engaged the close attention of Government. But such schemes have often been prepared only after great mischief had been done, —mischief that could have been avoided if steps had been taken in time. It is considered desirable to suggest to municipalities by legislation that they should intelligently anticipate and provide for future developments by framing town-planning schemes, and to give them coercive power to carry these schemes into effect.

In the cases that have come before Government the financial problem has always loomed large. Much of the deterrent expense which the schemes at present framed usually involve will be obviated by the simple course of anticipating development before it takes place. It costs nothing to decide beforehand that a projected street shall run in a certain direction, and be of a certain width. It may cost very large sums of money to re-align and widen a street after it has been allowed to grow up in a haphazard way.

The Bill further proposes to assist municipalities by applying the principle of betterment contributions or special assessment and charging part of the cost of constructing roads and of other works to the holders of property receiving immediate and direct benefit from them. It also proposes to relieve municipal funds by keeping within reasonable limits the cost of buying out existing interests.

The Bill also suggests that schemes should keep in view beauty, and not merely utility; that architecture should be regulated; open spaces, gardens and recreation grounds provided; and objects of architectural or natural beauty preserved.

The basis of the Bill is the town-planning portion of the English Housing and Town-planning Act of 1909 (9 Edward 7, c. 44).

NOTES ON CLAUSES.

Clause 3 is copied from section 8 of the Bombay Act, which in its turn reproduced parts of section 54 of the Parliamentary Act.

Clause 4.—This special legislation which involves an elaborate procedure and the solution of difficult problems, is intended for the municipal towns of the Madras Presidency which possess a sufficient number of intelligent citizens capable of applying it.

Clause 5 is based on section 55 and schedule IV of the English Act of 1909. For the important sub-clause (i), cf. section 55 (2) of the Parliamentary Act.

Clauses 6-9.—Cf. the Bombay Act, sections 9, 10, 11, 13, 14 and the Parliamentary Act, section 54 (4) and (5) and articles II to XXIII of the Regulations issued under that Act. Under the Bombay Act objections are dealt with by the local Government. In this Bill it is proposed that the municipal council should first consider them. Under section 14 (2) of the Bombay Act the local Government may modify at pleasure a scheme sent up by a municipal council. The Bill [clause 9 (3)] merely gives the local Government a power of conditional veto. The principle is kept in view that town-planning is a function of the local body and that the Government should merely exercise a power of control.

Clauses 10 *and* 11.—Cf. section 57 of the Parliamentary Act.

For *clause* 10 (*b*), cf. Bombay City Improvement Act, 1898, section 47 (3).

Clause 12.—Cf. section 58 (1) and (2) of the Parliamentary Act.

Clauses 13–17.—*Compensation on acquisition of property, etc.*—These clauses make a departure from the provisions of the Land Acquisition Act, 1894. The most important matter in which they do so is in abrogating the concession in section 23 (2), which provides for an addition of 15 per cent to the amount of every award in consideration of the compulsory nature of the acquisition. For this there is the precedent of the Parliamentary Act; see schedule 1, clause (3). The betterment principle is also applied to cases of partial acquisition by clause 14 (4); for which cf. rule 2 (*c*) of the schedule to the Parliamentary Development and Road Improvements Funds Act, 1909, and section 30 of the Rochdale Corporation Act, 1890.

Provisos to clause 14 (2) (*c*) and (*d*).—Cf. section 557 (*e*), Calcutta Municipal Act.

Clause 14 (3) (*f*) is an adapted version of section 24 *seventhly* of the Land Acquisition Act; for clause 14 (3) (*g*), section 557, proviso (ii) of the Calcutta Municipal Act may be compared.

For *clauses* 15 *and* 16 cf. section 557 (*d*) and proviso (iii) of the Calcutta Municipal Act and section 49 (4) and (5) of the Bombay City Improvement Act, 1898.

Clause 17 is based on section 59 of the Parliamentary Act and section 22 of the Bombay Act.

Clauses 18–20.—Betterment is dealt with very briefly in section 58 (3) of the Parliamentary Act, under which responsible authority is entitled to recover from any person whose property is increased in value by a scheme one-half of the amount of that increase.

The betterment principle, though long applied in Italy, the United States and Germany, is comparatively new in English legislation. It is dealt with in greater detail in certain local English Acts than in the Housing and Town-planning Act. For instance, the London County Council Act, 1895, section 36, contains elaborate provisions under the title "Improvement Charge." The charge under that Act is not levied in a lump sum, but in the form of a half-yearly tax, which may be redeemed on payment of 33 times the annual tax. In this Bill the betterment contribution takes the form neither of a lump sum payment, nor of a perpetual but redeemable charge. The Bill adopts an intermediate position, and provides that the special assessment shall be paid in twenty half-yearly instalments. This is the principle of the Italian Act of 1865, which has worked well for half a century. To safeguard the tax-payer clause 20 gives him the option of requiring the authorities to acquire his property at its market value. Precedents for such a provision will be found in section 80 of the Italian Act of 1865 and in sub-section 9 of section 36 of the London County Council Act of 1895, under which if the owners "are of opinion that such charge is greater than it should be in reference to the enhancement or supposed enhancement of the value of such lands by reason of the improvement they may at any time within the said period of three months (instead of giving any notice of objection under the preceding paragraph of this section) by notice in writing served upon the council require the council to purchase their estate and interest in such lands", unless the council abandon their intention to impose a charge.

Clause 21.—Cf. Parliamentary Act, 4th schedule, item 13 and section 27 of the Bombay Act.

Clause 22 provides for the case, likely to occur occasionally, of the absorption of a neighbouring union in a town which is extending its boundaries (e.g., Madras to Saidapet); and *Clause* 23 for the case of two neighbouring municipalities framing a joint scheme (e.g., Trichinopoly—Srirangam); section 55 (3) of the Parliamentary Act may be compared.

Clause 24.—Cf. section 54 (6) of the Parliamentary Act.

Clause 25.—Cf. section 58 (6) of the Parliamentary Act.

Clause 26.—Cf. section 61 of the Parliamentary Act

Clause 28.—Cf. sections 55 and 56 and schedule IV of the Parliamentary Act.

Clause 29 provides for the extension of the Act to small towns in exceptional circumstances.

Clause 30 gives the benefit of the compensation and betterment provisions of the Bill to schemes for the improvement of areas already built upon in cases when the owners of property benefit specially by the improvement. The special provisions regarding the acquisition of land in the Parliamentary Housing Act of 1890 and in the Bombay and Calcutta Improvement Trust Acts may be compared.

P. RAJAGOPALA ACHARIYAR.

F. J. RICHARDS,
Acting Secretary to Govt., L. & M. (Legislative) Dept.

THE MADRAS ELEMENTARY EDUCATIONAL BILL.

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The Madras Elementary Education Bill.

Preamble.

No. 4 OF 1920.

WHEREAS it is expedient to make better provision for elementary education in the Presidency of Fort St. George; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title.

1. This Act may be called the Madras Elementary Education Act, 19 .

Extent.

2. It shall come into force in such areas and on such dates as the Governor in Council may by notification direct.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context—

'Attendance.'

(i) 'Attendance' at a school with its grammatical variations and cognate expressions means presence for instruction at an elementary school for so many and on such days in the year and at such time or times on each day of attendance as may be prescribed;

'Chief executive officer.'

(ii) 'Chief executive officer' means the President of a taluk board, the Chairman of a municipal council or the Commissioner of the Corporation of Madras;

'Director of Public Instruction.' 'Inspector of Schools.' 'Assistant Inspector of Schools.'

(iii) 'Director of Public Instruction', 'Inspector of Schools' and 'Assistant Inspector of Schools' mean such officer or officers as the Governor in Council may appoint to perform the duties of Director of Public Instruction, Inspector of Schools and Assistant Inspector of Schools respectively;

'District.'

(iv) 'district' means any local area which for the purposes of the revenue administration shall be under the charge of a District Collector or which for the purposes of this Act the Governor in Council may by notification declare to be a district;

'District board.'

(v) 'district board' means a district board constituted under the Madras Local Boards Act, 1884;

'Elementary education.'

(vi) 'elementary education' means education in such subjects and up to such standard as may be prescribed;

'Elementary school.'

(vii) 'elementary school' means a school recognized as an elementary school under section 41;

'Elementary school-place.'

(viii) 'elementary school-place' means such accommodation, teaching, and equipment as may be prescribed as necessary for a child of school-age;

'Guardian.'

(ix) 'guardian' means any person to whom the care, nurture or custody of any child falls by law, or by natural right or recognized usage, or who has accepted or assumed the care, nurture or custody of any child, or to whom the care or custody of any child has been entrusted by any lawful authority;

'Local authority.'

(x) 'local authority' means a municipal council, a taluk board or the Corporation of Madras;

'Municipality.' 'Municipal Council.'

(xi) 'municipality' and 'municipal council' mean respectively a municipality and a municipal council constituted under the Madras District Municipalities Act, 1884;

'Prescribed.'

(xii) 'prescribed' means prescribed by rules made by the Governor in Council under this Act;

'Private elementary school.'

(xiii) 'private elementary school' means an elementary school which is not a public elementary school;

'Public elementary school.'

(xiv) 'public elementary school' means an elementary school maintained or managed by the Government or by a local authority;

'School-age.'

(xv) 'school-age' means such age as the Governor in Council may declare to be the school-age in respect of any local area or of any particular community;

'Taluk board.'

(xvi) 'taluk board' means a taluk board constituted under the Madras Local Boards Act, 1884.

CHAPTER II.

DISTRICT EDUCATIONAL COUNCILS.

(1) *Their Constitution.*

District Education Council.

4. For every district in which this Act is brought into force there shall be constituted a District Educational Council consisting of a president and such number of members as the Governor in Council may prescribe.

Constitution of Council.

5. (1) The District Collector shall ex officio be member and president of the District Educational Council:

Provided that the Governor in Council may appoint a member of a District Educational Council to be the president of the Council or may, by notification, authorize the Council to elect its president from among its own number, in such manner as may be prescribed, subject to the approval of the Governor in Council.

Provided also that the Governor in Council may, by notification, revoke such authority after previous intimation to the District Educational Council of the

grounds upon which such revocation is proposed and after considering the explanation and objections, if any, of the Council.

(2) If a district constituted under this Act comprises only part of a revenue district or comprises the whole or parts of two or more revenue districts, the Governor in Council may declare what officer shall be considered to be the District Collector for the purposes of this section.

(3) The Inspector and Assistant Inspector of Schools in whose jurisdiction the district is situated shall be ex officio members of the District Educational Council.

(4) The President of the District Board if other than the District Collector shall be ex officio a member of the District Educational Council. Each district board shall be entitled to elect from its non-official members one additional representative on the District Educational Council if the President of the District Board is a non-official, and in other cases to elect two such representatives.

(5) Every local authority within the district shall be entitled to elect such number of its members as may be prescribed to represent it on the District Educational Council.

(6) The other members of the District Educational Council shall be nominated by the Governor in Council:

Provided that it shall be competent for the Governor in Council by notification to authorize any private educational body maintaining elementary schools or any association of managers of private elementary schools to nominate or to elect one or more members of such body or association to represent it on the Council.

(7) The number of members nominated by the Governor in Council other than those nominated to represent private educational agencies shall not exceed one-fourth of the total number of members excluding ex officio members.

[...]presi- [...]of [...]cil.

6. The Governor in Council may appoint one of the members of a District Educational Council to be the vice-president of such Council, or may by notification authorize the members of any Council to appoint their vice-president by election from among their own number.

[...]of office [...]mbers of [...]cil.

7. (1) Subject to the provisions of section 9 every person nominated or elected to be a member of a District Educational Council shall continue in office for three years from the date of the *Fort St. George Gazette* wherein his appointment is notified:

Provided that any member elected by a district or taluk board or by a municipal council shall vacate his seat on the District Educational Council on ceasing to be a member of the body electing him.

(2) The vice-president of a District Educational Council shall be deemed to have vacated his office on the expiry of the term of his membership.

8. (1) Any person appointed or elected as president, vice-president or member of a District Educational Council may resign his office by giving notice in writing to that effect to the District Collector, and shall, on acknowledgment of such notice by the District Collector, be deemed to have vacated his office. Power of president, vice-president or member of Council to resign.

(2) Any person holding a salaried office under Government who is a member of a District Educational Council shall, on leaving the local area over which such Council has jurisdiction with the intention of remaining absent therefrom for more than three months or on his resignation, suspension, removal, or retirement from his office under Government, be deemed to have vacated his office of member of such Council.

9. (1) The Governor in Council may by notification remove any president, vice-president or member of a District Educational Council— Power of Local Government to remove president, vice-president or member of Council.

(i) if he is absent for more than three months from the jurisdiction of the Council or refuses to act or becomes incapable of acting or is declared insolvent or is convicted of any such offence or subjected by a criminal court to any such order as implies in the opinion of the Governor in Council a defect of character which unfits him to be president, vice-president or member of a District Educational Council,

(ii) if he, without excuse sufficient in the opinion of the Governor in Council, is absent from more than two consecutive meetings of the Council.

(2) The Governor in Council may fix a period during which any person so removed shall not be eligible for re-nomination or re-election.

10. No member of a District Educational Council shall receive any salary or other remuneration from the funds at the disposal of the Council. Member not to receive any remuneration from the funds of the Council.

Incorporation of Council.

11. Every District Educational Council shall be a body corporate by the name of the District Educational Council of the local area for which it shall have been established, shall have perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and subject to such rules as may be prescribed, to transfer any property held by it and to contract and to do all other things necessary for the purpose of its constitution, and may sue and be sued in its corporate name.

Appointments to be notified in the Gazette.

12. The election and appointment of every president, vice-president and member of a District Educational Council shall be notified in the *Fort St. George Gazette*.

(2) *Mode of Transacting Business.*

Council to keep an office.

13. Every District Educational Council shall provide an office and shall meet for the transaction of business upon such days and at such times as it may arrange and also at other times as often as a meeting shall be called by the president or in his absence by the vice-president:

Provided that every Council shall meet at least once in every two months.

President or vice-president to call a meeting on requisition.

14. The president or in his absence the vice-president shall at any time on the requisition in writing of not less than one-third of the members of the Council call a meeting of such a Council:

Provided that no such meeting shall be held unless a notice of the meeting specifying the time and place at which and the purpose for which it is to be held has at least six days previous to the day of such meeting been addressed and sent by the president or vice-president to each of the members.

Who is to preside at meeting.

15. (1) At every meeting of a District Educational Council the president or in his absence the vice-president shall preside.

(2) In the absence from any meeting of the president and the vice-president, the members of the District Educational Council present at the meeting shall choose some one of their number to preside thereat.

Meetings of Council to be public.

16. All meetings of a District Educational Council shall be open to the public:

Provided that the presiding member may in any particular case direct that the public generally or any particular person shall withdraw.

Quorum.

17. (1) No business shall be transacted at a meeting unless at least one-third of the whole number of members then on the Council be present.

(2) If within half an hour after the time appointed for a meeting a quorum is not present, the president, vice-president or presiding member may adjourn the meeting to some future date.

Decision by majority.

(3) All questions which may come before a District Educational Council at any meeting shall be decided by a majority of the votes; and in case of an equality of votes the president or other presiding member shall have a second or casting vote.

Casting vote.

Interested member not to vote.

(4) No member of a District Educational Council shall vote on any question coming before the Council for consideration in which (otherwise than in its general application to all persons and properties within the local area) he has any pecuniary interest.

Modification or cancellation of resolution.

(5) No resolution of a District Educational Council shall be modified or cancelled within three months by such Council, except at a meeting specially convened in that behalf and by a resolution of the Council supported by not less than one-half of the whole number of members then on such Council.

Minutes of proceedings.

18. (1) Minutes of the resolutions of a District Educational Council passed at each meeting shall be drawn up and entered in a book to be kept for that purpose, and shall be signed by the president or the member who presided at such meeting, and shall, at all reasonable times and without charge, be open at the office of the Council to the inspection of any person residing within the jurisdiction of such Council.

Copies of minutes sent to District Collector for publication.

(2) A copy of the minutes of the resolutions of each meeting shall, within three days from the date thereof, be transmitted to the District Collector for publication in the district gazette in English and in the vernacular language of the district.

Copies of minutes sent to chief executive officer of each authority.

(3) A copy of the minutes of the resolutions of each meeting shall, within a week from the date thereof, be transmitted to the chief executive officer of each local authority represented on the District Educational Council, and also to each member of the Council.

Certified copies of proceedings records.

(4) The president and in his absence the vice-president shall have the custody of the proceedings and records of the District Educational Council and may

grant copies of any such proceedings and records either free or on payment of such fees as the Council may determine to such officers or persons as the Council may by general or special order direct.

[Executive power vested in the president.] **19.** (1) The resolutions of a District Educational Council shall be carried into effect by the president, in whom the entire executive power of the Council shall be vested and who shall be directly responsible for the due fulfilment of the purposes of this Act.

[Exception.] (2) It shall not be lawful for the president to exercise any power which by this Act it is expressly declared shall be exercised by the Council.

[Delegation of powers by president to vice-president.] (3) The president may authorize the vice-president by an order in writing to exercise any of the powers conferred or to perform any of the duties imposed on the president by this Act and may in like manner modify or cancel such order:

Provided that the delegation of powers or duties under this clause shall not relieve the president of any responsibility imposed upon him by this Act.

[Standing orders as to conduct of business.] **20.** Every District Educational Council may make standing orders consistent with this Act, and with any rules framed thereunder by the Governor in Council, in regard to the following matters:—

(i) the time and place of its meetings;

(ii) the manner in which notice thereof shall be given;

(iii) the conduct of proceedings at meetings;

(iv) the division of duties among the members of the Council;

(v) the appointment, duties and procedure of special committees consisting wholly of a certain number of members of the Council or partly of such members and partly of residents within the local jurisdiction of the Council;

(vi) the persons by whom receipts may be granted for money paid to the Council;

(vii) the inspection by members of the Council of elementary schools situated within the jurisdiction of such Council and the inspection of accounts, books, registers and returns, reports, and other documents appertaining thereto; and

(viii) all other similar matters.

[Power of Local Government to suspend action under this Act.] **21.** The Governor in Council may, by order in writing, suspend the execution of any resolution of any District Educational Council or of any order issued by any District Educational Council or president or cancel such resolution or order and may prohibit the doing of any act which is about to be done or is being done in pursuance of or under colour of this Act, if in his opinion such resolution has not been legally carried or such resolution, order or act is in excess of the powers conferred by law.

[Powers of Local Government in case of default of Council or its president.] **22.** (1) If at any time it appears to the Governor in Council that a District Educational Council or its president has made default in performing any duty imposed by or under this Act, the Governor in Council may by order in writing fix a period for the performance of such duty.

[Appointment of person to perform duty in case of default.] (2) If the duty is not performed within the period so fixed, the Governor in Council may appoint some person to perform it, and may direct that the expense of performing it shall be paid, within such time as he may fix, to such person by the District Educational Council.

[Recovery of expense.] (3) If the expense is not so paid, the Governor in Council may make an order directing the person having the custody of the fund constituted under section 28 to pay such expense in priority to any other charges against such fund except charges for the service of authorized loans. Such person shall, so far as the funds to the credit of the District Educational Council admit, comply with such order.

[Powers of Local Government to interfere if Council is not properly performing its duties under this Act.] **23.** If at any time it appears to the Governor in Council that a District Educational Council is not properly performing its duties under this Act, he may direct that all elected and nominated members of such District Educational Council shall vacate their seats and that the vacancies shall be filled by election in respect of elected members, and by nomination in respect of nominated members, or that all the vacancies shall be filled by nomination.

(3) *Duties of District Educational Councils.*

[Duties of Council.] **24.** (1) It shall be the duty of every District Educational Council—

(i) to prepare and maintain a register showing all elementary schools and all primary departments attached to secondary schools, and the number of elementary school-places thus provided;

(ii) to tabulate such further information as may be necessary to enable the Council to frame an estimate of the existing provision for elementary education and of the further provision necessary to place elementary education within the reach of all children of school-age;

(iii) to prepare in consultation with the authorities concerned schemes for the extension of elementary education in each taluk board and municipal area ;

(iv) to arrange in consultation with the authorities concerned and with other educational agencies for the opening of additional schools and the expansion of existing schools with a view to giving effect as funds permit to such schemes ;

(v) to grant recognition to elementary schools under the provisions of section 41 ;

(vi) to consider and pass orders on all applications under section 42 for grants-in-aid on behalf of private elementary schools ;

(vii) to disburse all sanctioned grants-in-aid to private elementary schools from funds placed at the disposal of the Council in this behalf by the Director of Public Instruction ;

(viii) to maintain a register of all recognized institutions in the district which provide for the training of elementary school teachers ;

(ix) to prepare and maintain a register of all trained and certificated teachers employed in elementary schools in the district ;

(x) to prepare and submit to the Director of Public Instruction proposals for increasing the supply of trained and certificated teachers ;

(xi) to advise upon all matters relating to elementary education referred to the Council by the Director of Public Instruction.

(2) The register referred to in clause (i) shall be maintained and the information referred to in clause (ii) shall be tabulated separately for each taluk board and municipal area within the jurisdiction of the District Educational Council.

Council to submit statement of private elementary schools receiving grants-in-aid.

25. Every District Educational Council shall in each official year—

(i) frame and submit to the Director of Public Instruction, by such date and in such form as he may direct, a statement showing for its district (*a*) the names of private elementary schools for which grants-in-aid have been sanctioned for that year and (*b*) the amount of the grant which has been sanctioned for each such school, and

(ii) furnish a report to the Director of Public Instruction, by such date and in such form as he may direct, exhibiting the grants-in-aid which it has distributed to schools within its district.

26. Every District Educational Council shall submit to the Director of Public Instruction such further reports and statements as may be prescribed.

And such other reports as may be prescribed.

27. For the proper discharge of the duties imposed by this Act every District Educational Council shall employ such establishment as may be sanctioned by the Governor in Council.

Employment of establishment.

(4) *Funds, Budget and Audit.*

28. Every District Educational Council shall maintain a fund to which shall be credited—

What shall constitute the fund of the Council.

(i) all sums granted by the Governor in Council for the payment of grants-in-aid of elementary education ;

(ii) all sums granted by the Governor in Council for the payment of office and establishment expenses ;

(iii) all income derived from any endowments or other property owned or managed by the Council ;

(iv) all other sums of money which may be received by the Council for the purposes of this Act.

29. (1) The fund of each District Educational Council shall be lodged in such bank or Government treasury as the Governor in Council may direct.

Fund where to be lodged and how to be drawn against.

(2) All expenses incurred by the District Educational Council shall be paid out of such fund.

(3) All orders or cheques upon the fund shall be signed by the president or by such person as he may authorize in writing to sign on his behalf.

30. (1) On or before the 30th November in each year every District Educational Council shall submit to the Governor in Council through the Director of Public Instruction, in such form as may be prescribed, a budget of income and expenditure for the ensuing financial year.

Council to submit to local Government budget of income and expenditure.

(2) The Governor in Council may pass such orders as he thinks fit in respect of the budget and the District Educational Council shall be bound to carry out all such orders.

31. The accounts of every District Educational Council shall be examined and audited by an officer appointed by the Governor in Council in this behalf and the District Educational Council shall carry out any instructions which the Governor in Council may issue on perusal of the audit report.

Audit of accounts of council.

CHAPTER III.

EDUCATION FUNDS.

(1) *Their constitution and control.*

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32. There shall be constituted for each local authority in every district in which this Act is brought into force an elementary education fund to which shall be credited—

(i) the proceeds of any tax levied within the jurisdiction of such authority under the provisions of this Act;

(ii) all sums granted to such authority by the Governor in Council for the benefit of elementary education;

(iii) all fines and penalties levied within the jurisdiction of such authority under the provisions of this Act;

(iv) all income derived from any endowments or other property owned or managed by such authority for the benefit of elementary education;

(v) all school fees, if any, collected in elementary schools managed by such authority; and

(vi) all other sums of money which may be contributed or received by such authority for the purposes of this Act.

lucation nd where be lodged d how to be awn ainst.

33. (1) The education fund constituted under section 32 shall be lodged in such bank or Government treasury as the Governor in Council may direct.

(2) All expenses incurred on elementary education by the local authority concerned shall be paid out of the fund.

(3) All orders or cheques upon the fund shall be signed by the chief executive officer of the local authority or by such person as he may authorize in writing to sign on his behalf.

(4) So far as the funds to credit permit, the treasury or bank shall pay—

(*a*) all orders or cheques signed in accordance with sub-section (3);

(*b*) all expenses incurred by the Governor in Council on behalf of the local authority, provided that the local authority has given previous authority in writing to the bank or treasury to debit such expenses to the fund without the issue of any order or cheque.

(2) *The Education tax and Government contribution.*

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34. With the previous sanction of the Governor in Council any local authority for which an elementary education fund has been constituted under section 32 may levy within its area the following taxes, namely:—

In the City Madras.

(i) if the area is within the City of Madras, as defined in section 3 (9) of the Madras City Municipal Act, 1919, a tax not exceeding twenty-five per centum of all or any of the following:—viz., the property tax, the tax on companies and the profession tax,

In other municipali-ties.

(ii) if the area is within any other municipality—a tax not exceeding twenty-five per centum of all or any of the following:—viz., the property tax, the tax on companies and the profession tax,

In unions.

(iii) if the area is within a union as defined in section 3 (xxviii) of the Madras Local Boards Act, 1884, a tax not exceeding twenty-five per centum of the house-tax levied under section 57 (iii) of that Act,

In areas not included in a municipality or union.

(iv) if the area is not within a municipality or union—a tax not exceeding one anna in the rupee on the annual rent value of all occupied lands.

Rate at which the tax should be levied.

35. The local authority shall decide at what rates, subject to the maxima prescribed in section 34, the taxes shall be levied and may from time to time alter such rates.

Taxes how levied.

36. (1) The taxes leviable under clauses (i) and (ii) of section 34 shall be levied along with the corresponding municipal taxes and shall in respect of the procedure of assessment and realization be deemed to be part of such taxes and shall be governed by the relevant provisions of the Madras City Municipal Act, 1919, and the Madras District Municipalities Act, 1884.

(2) The assessment and realization of the taxes leviable under clauses (iii) and (iv) of section 34 shall be governed by sections 64 to 86 inclusive of the Madras Local Boards Act, 1884.

(3) The authority collecting such taxes shall pay the proceeds thereof to the credit of the education fund.

Contribution by the local Government to education fund.

37. When an elementary education fund is constituted under section 32, the Governor in Council shall contribute thereto a sum not less than the proceeds of the taxation levied under section 34 on behalf of the fund:

Provided that such contribution shall be in addition to, and not in lieu of, the amount of expenditure incurred from Provincial funds during the financial year before the coming into force of this Act on education in public elementary schools situated within the area for which such elementary education fund has been constituted.

(3) *Budget and Audit.*

Budget of income and expenditure relating to education fund.

38. (1) On or before the 30th November in each year every local authority for which an elementary education fund has been constituted under section 32 shall submit to the Governor in Council through the District Educational Council and the Director of Public Instruction, in such form as may be prescribed, a budget for the ensuing financial year showing the income and expenditure relating to such fund.

(2) The Governor in Council may pass such orders as he thinks fit in respect of the budget and the local authority concerned shall be bound to carry out all such orders.

Audit of accounts of education fund.

39. The accounts of each education fund shall be examined and audited by an officer appointed by the Governor in Council in this behalf and the local authority concerned shall carry out any instructions which the Governor in Council may issue on perusal of the audit report.

Saving clause.

Saving clause.

40. Nothing in the Madras District Municipalities Act, 1884, or in the Madras Local Boards Act, 1884, or in the Madras City Municipal Act, 1919, shall apply to the fund constituted under section 32 or, save as otherwise expressly provided herein, shall affect any of the provisions of this chapter.

CHAPTER IV.

ELEMENTARY SCHOOLS.

(1) *Recognition.*

Recognition of elementary schools.

41. (1) The manager of any school under private or public management desiring that such school shall be recognized as an elementary school shall submit an application in the prescribed form through the Inspector of Schools to the District Educational Council.

(2) Subject to such rules as may be prescribed the District Educational Council may, by an order in writing, grant such application, either with or without conditions, or refuse or defer the grant of recognition, and may in like manner cancel or suspend any order granting recognition.

(3) An appeal shall lie to the Director of Public Instruction in respect of any order passed under sub-section (2).

(4) All orders of recognition in respect of elementary schools made by the Director of Public Instruction or by an Inspector of Schools before this Act came into force shall be held to have been made under this section.

(2) *Grants-in-aid.*

Grants-in-aid of private elementary schools.

42. (1) The manager of any private elementary school desiring that such school shall be admitted to aid shall submit an application in the prescribed form through the Inspector of Schools or other officer appointed in this behalf to the District Educational Council:

Provided that nothing contained in this section shall render it incumbent on the manager of any private elementary school which has already been admitted to aid to submit any such application.

(2) Subject to such rules as may be prescribed the District Educational Council shall pass orders on any application and may subsequently modify or cancel such orders.

(3) An appeal shall lie to the Director of Public Instruction in respect of any order passed under sub-section (2).

Manager of school admitted to aid to furnish council with returns and information.

43. The manager of any school admitted to aid under section 42 shall furnish the District Educational Council with returns and other information as may be prescribed and shall afford the council reasonable facilities for verifying such returns and information.

CHAPTER V.

COMPULSORY ELEMENTARY EDUCATION.

(1) *Introduction of compulsion.*

Local authority may resolve that elementary education shall be made compulsory within its area.

44. Subject to the conditions laid down in this chapter any local authority may, by a resolution passed at a meeting specially convened for the purpose and supported by the votes of not less than two-thirds of the members present, resolve that elementary education shall be compulsory within the whole or a specified part of the local area under its jurisdiction—

(*a*) for all children of school age, or
(*b*) for boys of school age, or
(*c*) for girls of school age.

Local authority to submit its resolution to Local Government.

45. (1) Every resolution passed under section 44 shall be submitted through the District Educational Council to the Governor in Council.

Local Government may accept or reject such resolutions.

(2) The Governor in Council may accept or reject any such resolution:

Proviso.

Provided that the Governor in Council shall reject the resolution unless—

(a) the local authority concerned shall have declared by resolution its readiness to levy the education tax throughout the area specified at such rate as may be necessary to meet the expenditure involved: and

(b) the Governor in Council is satisfied that adequate arrangements have been made for the provision of trained teachers and that the number of elementary school-places in the area is sufficient or will, within a reasonable period, be made sufficient for all children of school age residing therein, subject to the exceptions permitted by the provisions of section 49.

Provided further that if the resolution extends only to the children of one sex, the Governor in Council may reject it unless satisfied that sufficient accommodation is or will be provided as required by sub-clause (b) of the foregoing proviso for all the children of school age of the other sex resident in the area or for such proportion of them as the Governor in Council may in each case direct.

Explanation.—The number of elementary school-places shall not be considered to be sufficient unless provision has already been made or will, within a reasonable period, be made for the education of every child not exempted under section 49 in an elementary school situated within two miles from the residence of such child:

Provided that in the case of any specified local area the Governor in Council may, by notification, vary the distance herein laid down for such period of time as he may think fit.

Acceptance of resolution by Local Government to be notified.

46. On the acceptance of a resolution by the Governor in Council under sub-section (2) of section 45, the fact of such acceptance shall be notified in the *Fort St. George Gazette*, and in the gazette of the district, if any, and the provisions of sections 47 to 51 (both inclusive) shall thereupon come into force within such area and from such date as may be specified in the notification.

(2) *Exemptions.*

Power to exempt any person or class of persons.

47. The Governor in Council may, by notification, exempt any person or class of persons from the effect of a notification under section 46.

(3) *Responsibility of guardians.*

Responsibility of guardian to cause child of school age to attend school.

48. In every area affected by a notification under section 46 it shall be the duty of the guardian of every child of school age resident in such area, subject to the exceptions authorized by section 49, to cause such child to attend an elementary school in such area:

Provided that no guardian shall be compelled to cause a child to attend a school at which attendance at religious instruction in a faith other than that to which the child belongs is compulsory.

Under what circumstances attendance of child at school shall not be compulsory.

49. Attendance at school shall not be compulsory in the following circumstances:—

(i) if there is no elementary school within two miles or such other distance as may have been notified under the explanation to sub-section (2) of section 45 from the residence of the child;

(ii) if the child is prevented from attending school by reason of sickness, infirmity or other cause declared by a resolution of the local authority concerned to be a reasonable excuse;

(iii) if the child is receiving instruction in some other manner declared to be satisfactory by a prescribed officer;

(iv) if the child has already received instruction in an elementary school or otherwise up to the standard prescribed for elementary education;

(v) if the child is exempt from attendance on any other prescribed ground.

(4) *Attendance Committees.*

Appointment of attendance committees.

50. The local authority concerned shall be responsible for the enforcement of the provisions of section 48 and, subject to such rules as may be prescribed, shall for this purpose appoint one or more attendance committees.

Attendance committee to cause a complaint to be presented to magistrate for failure to cause child to attend school.

51. (1) Whenever an attendance committee is satisfied that a guardian has without reasonable excuse failed to discharge the obligation created by section 48, it may cause a complaint against such guardian to be presented to any magistrate having local jurisdiction.

(2) If satisfied that the complaint is well founded, the magistrate shall pass an order directing the guardian to cause the child in respect of whom the complaint is preferred to attend school regularly after a specified date.

Penalty for failure to cause child to attend school.

(3) If without reasonable excuse the guardian fails to comply with such order, the attendance committee may sanction his prosecution and on conviction by a magistrate the guardian shall be liable to a fine not exceeding ten rupees :

Provided that any person who has on two or more previous occasions been convicted of an offence under this section, shall on further conviction be liable to a fine not exceeding Rs. 100, or to simple imprisonment not exceeding two months.

CHAPTER VI.

RELIGIOUS INSTRUCTION.

District Educational Council to make arrangement for the provision of elementary education without insistence on religious instruction in certain cases.

52. (1) If at any private elementary school in receipt of aid under section 42 the children are required to be present during religious instruction based on the distinctive doctrines or creed of any particular religion, sect or denomination, and not less than ten guardians of children attending such school make an application in writing to the District Educational Council for the provision of elementary education in such a manner as to obviate their compulsory presence during religious instruction, the District Educational Council, on being satisfied that the requisite provision does not already exist in some other neighbouring elementary school, shall either—

(*a*) enter into an agreement with the manager of the school for the exemption from presence during religious instruction of all children whose guardians make a written request therefor, or

(*b*) arrange with the local authority concerned for the establishment of a public elementary school within two miles or such other distance as may have been notified under the explanation to sub-section (2) of section 45 from the residence of every child in respect of whom alternative educational facilities are requested.

(2) Every agreement made under sub-section (1) shall be for a stated period, on the expiry of which, it shall, at the option of the manager, be determined or renewed for a further period on such terms as may be arranged.

(3) If the agreement is determined under sub-section (2), the District Educational Council shall make arrangements as aforesaid for the establishment of a new public elementary school.

Eligibility for grant-in-aid of recognized schools imparting religious instruction.

53. If an elementary school, the manager of which refuses to enter into an agreement under section 52 or exercises his option of determining such an agreement, continues to comply with the conditions on which recognition has been granted under section 41, it shall nevertheless be eligible for such grants-in-aid as may be admissible under section 42.

CHAPTER VII.

MISCELLANEOUS.

If there is no taluk board in a district, district board may exercise the powers and duties of taluk board.

54. If in any area, not being a municipality, there is no taluk board, the powers and duties of a taluk board under this Act shall be respectively exercised and performed by the district board having jurisdiction over such area :

Provided that in such case the provisions of sub-section (4) of section 5 shall not apply.

Power of Government to make rules.

55. The Governor in Council may make rules not inconsistent with this Act—

(1) declaring what shall constitute 'elementary education', 'elementary school place' and 'attendance at school';

(2) declaring what schools shall be classed as elementary;

(3) regulating the election of presidents of District Educational Councils and the number of members which each local authority can elect to represent it on the District Educational Council;

(4) regarding the appointment, pay, punishment and removal of the officers and servants employed by District Educational Councils;

(5) determining the conditions subject to which property may be acquired, held and transferred by District Educational Councils;

(6) regarding the registers, statements, reports, returns, budgets and other information to be maintained or furnished by District Educational Councils, by local authorities, by managers of private elementary schools and by attendance committees;

(7) declaring the conditions subject to which schools may be admitted to recognition or aid;

(8) regulating the appointment of school attendance committees ; and

(9) generally for giving effect to the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS.

The inadequacy of the present provision for elementary education has long been a matter of anxious concern to the Government. Liberal grants from general revenues to supplement the limited resources of local bodies and the generous exertions of private agencies have enabled considerable progress to be made during recent years, but if progress towards universal elementary education, enforced if necessary by compulsion, is to be accelerated, it has become imperatively necessary to place the future organization of elementary education on a statutory basis and to set the financial provision therefor on a stable footing, secure from the conflicting claims of other administrative needs.

2. Further if universal elementary education is to be attained, the activities of the various agencies engaged in supplying it (viz., Local Boards, Municipal Councils, and Mission and Non-Missionary agencies) must be co-ordinated and directed. The Bill accordingly provides for the creation in each district of a District Educational Council which will be an independent *ad hoc* body and not a statutory committee of any of the existing local bodies. The constitution of the Council is defined in chapter II of the Bill and its principal functions will be—

(*a*) to prepare schemes for the extension of elementary education with a view to its ultimately becoming universal;

(*b*) to elicit and direct the co-operation of all agencies, whether public or private, engaged in providing elementary education on the lines best adapted to secure this object;

(*c*) to regulate the recognition of all elementary schools and to assess and disburse all grants-in-aid to private elementary schools from Provincial funds placed at their disposal for the purpose; and

(*d*) to advise the Department of Education on all matters connected with elementary education including the provision of trained elementary school teachers.

Subject to the rules framed for their guidance local bodies and private agencies will continue to exercise full control over all elementary schools under their management.

3. To enable local bodies to meet the increased outlay on elementary education which they will have to incur, chapter III of the Bill provides for the levy with the previous sanction of the Governor in Council of an education tax subject to the prescribed maxima; the proceeds of the proposed tax will be placed entirely at the disposal of each local authority within the areas subject to its jurisdiction in which it is raised. Clause 37 also provides for an equivalent contribution being made to each local body from Provincial funds.

4. Chapter V of the Bill provides for the introduction of compulsion in suitable areas with the previous sanction of the Local Government. Compulsion, however, can only be enforced where sufficient school places exist to render it practicable and provision is made to secure compliance with that condition. Provision is also made for such exemptions as are necessary in respect of particular areas, classes or individuals. Attendance will be enforced by 'attendance committees' appointed by local bodies.

5. Chapter VI deals with the question of religious instruction in recognized elementary schools. It enables District Educational Councils to enter into agreements with managers of private institutions where religious instruction of a denominational type is enforced, by which special arrangements will be made for the exemption of pupils whose guardians object to their attendance at such instruction and to open new public elementary schools at which such pupils can attend where circumstances render this course necessary.

NOTES ON CLAUSES.

The principal clauses in the Bill are noticed below :—

CHAPTER I.

Clause 2 empowers the Local Government to select areas in which the Act may be introduced and to specify the date from which it should come into force. This will enable Government to exclude from the operation of the Act agency and other backward tracts.

Clause 3, *sub-clause* (*vi*), leaves elementary education to be defined by rule. Otherwise, any alteration in the definition from time to time will require legislation.

Sub-clauses (*xiii*) *and* (*xiv*).—The existing departmental terminology of 'public schools under public management' and 'public schools under private management' is confusing and misleading. Opportunity has been taken to adopt a simpler definition.

Sub-clause (*xv*) leaves 'school-age' to be defined by rule and allows for its being varied not only in different areas but also in respect of different communities. It has been represented that, as religious instruction is compulsory in the case of Muhammadan boys, they enter schools imparting secular instruction at a comparatively late age.

CHAPTER II.

Clause 4 provides for the appointment of District Educational Councils. Districts vary greatly in population and in the number of taluk boards and municipalities which they contain, and the number of members of each Council has therefore to be determined with reference to the circumstances of each district. No minimum or maximum number of members has therefore been laid down.

Clause 5 (1).—It is desirable that the new Councils should, at the outset, be under the guidance of the Collectors of the districts to ensure the success of the experiment, but provision is made for nomination or for the Councils being empowered to elect their own presidents after some experience has been gained.

Clauses 5 (4), (5) and (6) provide for the representation on the Council of the district board, of taluk boards and municipal councils within the district, and where deemed necessary, of private educational bodies and associations of managers interested in elementary education.

Clause 5 (7) reserves to the Governor in Council the power of making nominations to the District Educational Council subject to a specified maximum. This is with a view to secure the representation of special communities, e.g., Muhammadans, and of non-officials or others who have exceptional knowledge of educational needs.

Clauses 25 *and* 26 provide for the submission by the Councils to the Director of Public Instruction of reports and returns relating to grants-in-aid and other matters to enable the Government to judge whether they are discharging satisfactorily the duties imposed on them.

Clause 28 deals with the constitution of the funds of the Councils. Clause 28 (*iii*) provides for cases in which educational benefactors may wish to make District Educational Councils, rather than any particular local authority, the trustees of endowments for elementary education.

CHAPTER IV.

Clause 41 empowers District Educational Councils to grant recognition to elementary schools by whatever agency managed and provides for an appeal against their orders in matters of recognition. It also safeguards the status of schools recognized by the department at the time of the passing of the Act.

Clause 42 empowers District Educational Councils to sanction grants-in-aid to managers of private elementary schools. It will not however be necessary for the manager of a private elementary school already admitted to aid at the time of the passing of the Act to submit a further application.

CHAPTER V.

Clause 44 provides for compulsion being made applicable to all children or being confined to boys of school-age or to girls of school-age.

Clause 45 makes the sanction of the Governor in Council necessary to give effect to the resolution of a local authority to declare elementary education compulsory in any area under its jurisdiction.

Clause 47 provides for the grant by the Local Government of exemptions from the provisions relating to compulsory education to persons either by name or class. School attendance committees will deal with individual cases not covered by such exemptions.

Clauses 50 *and* 51 provide for the appointment of school attendance committees and for the punishment of guardians who fail to send their children to school without reasonable excuse.

Clauses 52 *and* 53 provide for agreements being entered into regarding exemption from religious instruction in private elementary schools, for the denouncement of such agreements by the managers of such schools, and for the opening of public elementary schools for the children affected, when necessary.

Clause 54 is intended to meet the case of district boards, such as Koraput and The Nilgiris, where taluk boards do not exist.

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